

## GENERAL POLICY

2650  
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The purpose of the Youth Authority's sexual harassment prevention policy is to prevent and prohibit inappropriate conduct which constitutes sexual harassment and to provide a work environment free of harassment. The department has zero tolerance toward any type of discrimination or harassment. Employees are expected to adhere to a standard of conduct that is respectful of all persons within the work environment. Off-duty activities that affect the work environment may also be subject to departmental review and action.

Any form of sexual harassment or retaliation by employees, applicants, volunteers, parolees, and/or wards will not be tolerated. Per Government Code section 12940, employees are also personally liable for prohibited harassment perpetrated by the employee. Youth Authority employees have a responsibility to document and immediately report all situations where actions by employees, applicants, volunteers, parolees, and/or wards may constitute sexual harassment to employees, applicants, volunteers, parolees, wards, or visitors. Employees, volunteers, parolees, and/or wards who engage in conduct prohibited under this policy or who fail to immediately report harassment will be subject to appropriate action, including discipline.

## DEFINITION OF SEXUAL HARASSMENT

2651

Sexual Harassment is defined as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical or visual conduct of a sexual nature which occurs under any one of three circumstances:

1. Submission is made either explicitly or implicitly a term or condition of employment.
2. Submission or rejection by an employee is used as a basis for employment decisions affecting the employee.
3. Such conduct has the potential to affect an employee's work performance negatively and/or create an intimidating, hostile or otherwise offensive working environment.

Conduct or behavior of a sexual nature may be included in one or more of the categories listed below.

Category I:"QUID PRO QUO"

2652

"Quid Pro Quo" is a Latin term meaning "This for That." This type of sexual harassment occurs when submission to sexual advances is either implicitly or explicitly a condition of employment. Examples include:

DEPARTMENT OF THE YOUTH AUTHORITY	SUBJECT: SEXUAL HARASSMENT PREVENTION POLICY	
ADMINISTRATIVE MANUAL	SECTION:	2652

- Engaging in coercive sexual behavior to control, influence, or affect the career, salary, and/or work environment of another employee.
- Offering favors or employment benefits, such as promotions, favorable performance evaluations, advantageous duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Category II: RETALIATION FOR REJECTION OF SEXUAL ADVANCES

2653  
REV

Retaliation occurs when a supervisor or co-worker takes adverse action against an individual for rejection or reporting of sexual advances. Some examples of retaliation for rejection of sexual advances are:

- Reprisals, threats of reprisal, or implied threats of reprisal following a refusal. Areas that may be affected are promotions, assignments, performance reports, probation status, and appointments.

Category III: HOSTILE WORK ENVIRONMENT

2654  
REV

A "hostile work environment" may be found if an employee was subjected to unwelcome sexual harassment; the harassment complained of was based on sex; the harassment complained of was sufficiently severe or pervasive so as to alter the conditions of employment and create an abusive working environment.

Category IV: PROHIBITED CONDUCT

2655  
REV

This category encompasses some of the most common behaviors which occur in the work place. Some examples are:

- Written: suggestive or obscene letters, notes, pictures, invitations.
- Electronic mail: electronic mailing of suggestive or obscene letters, notes, pictures, invitations.
- Verbal: graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; sexual propositions; slurs; jokes; epithets; comments about sexual prowess or activity; suggestive remarks regarding attire.
- Physical: smacking or licking of lips; tongue gestures; gestures or movements with body parts (finger, hand, lower body, etc.) which have sexual

DEPARTMENT OF THE YOUTH AUTHORITY	SUBJECT: SEXUAL HARASSMENT PREVENTION POLICY	
ADMINISTRATIVE MANUAL	SECTION:	2655

connotations; suggestive touching; impeding or blocking movement; or assault (may also be pursued in criminal court).

- Visual: leering; gestures; display of sexually suggestive objects; videos; pictures; cartoons; posters; etc.

### THIRD PARTY FILING

2656

Sexual harassment often occurs when only the harasser and his/her "victim" are present. However, if an individual is present when sexual harassment takes place, even though he or she is not the object of harassment, he or she may file a complaint as a third party.

### RESPONSIBILITIES OF EMPLOYEES

2657  
NEW

If an employee believes he/she has been subjected to prohibited conduct of a sexual nature, retaliated against for complaining about that conduct or refusing to engage or otherwise respond to that conduct, or retaliated against for participating in an inquiry concerning that conduct, he/she must:

- report the conduct immediately to the local administrator, appropriate supervisor, manager, EEO Counselor, or the EEO Office at headquarters;
- report the conduct directly to the EEO Office at headquarters, if it is perceived that a conflict of interest exists between local administrator, work-site supervisor, manager, and the person involved in that conduct;
- document the incident;
- once the incident has been reported to the local administrator, appropriate supervisor, manager, EEO Counselor, or the EEO Office at headquarters, the employee should not discuss the incident with other co-workers.

Merely documenting the conduct or confiding in a co-worker or friend, without reporting it to a local administrator, supervisor, EEO Counselor, or the EEO Office, is inadequate to prevent the conduct from reoccurring.

### RESPONSIBILITIES OF SUPERVISORS

2658  
REV

Supervisors are responsible for ensuring that there is a work environment free from sexual harassment. Supervisors are also responsible for taking immediate and appropriate actions, which include contacting local administrators and the EEO Office, whenever they know or should have known of conduct that could be construed as sexual harassment. Supervisors are required to:

- Document the actions taken.
- Ensure that the Youth Authority's policy preventing and prohibiting sexual harassment is known by all employees.
- Not engage in or condone sexual harassment.
- Be accessible to staff.
- Respect individuals' rights to confidentiality and privacy. However, policy requires that supervisors report the conduct and take immediate action.
- Be non-judgmental regarding the issue.
- Maintain objectivity at all times and assure all individuals involved that the matter is taken seriously.
- Take appropriate action within five calendar days after knowledge of the incident.
- Inform employees of their worksite EEO Counselor.
- After taking appropriate action, follow-up within a reasonable amount of time to ensure that the behavior has ceased and that there are no reprisals.
- After closure has been obtained, immediately provide the Equal Employment Opportunity (EEO) office in headquarters with the required documentation.
- Explain to the individual who may have been subjected to prohibited conduct that he or she may bypass the supervisor and report the matter directly to the next supervisor in the chain of command or to an EEO Counselor or to the EEO Office in headquarters.

PENALTY GUIDELINES

2659

REV

If charges are found true, the Youth Authority will take appropriate corrective action against the harasser, which may or may not include formal discipline. The disciplinary action taken against a harasser may be termination of employment. In addition, per Government Code Section 12940, employees are also personally liable for prohibited harassment perpetrated by the employee. Local administrators, supervisors, and managers may receive disciplinary actions for failure to take appropriate and expedient action. Here also, disciplinary action may include termination of employment.

RESPONSIBILITIES OF APPLICANTS/VOLUNTEERS

2660

REV

Any applicant for employment or volunteer who believes that he/she was subjected to prohibited conduct of a sexual nature, retaliated against for complaining about that conduct or refusing to engage or otherwise respond to that conduct, or retaliated against for participating in an inquiry concerning that conduct, must report the incident immediately. There is no substitute for reporting prohibited conduct or retaliatory conduct to the appropriate supervisor, manager, EEO Counselor, or the EEO Office at headquarters. Merely documenting the conduct or confiding in a co-worker or friend, without reporting it to a supervisor, EEO Counselor, or the EEO Office, is inadequate to prevent the conduct from reoccurring. In those instances where a work-site supervisor or manager is engaging in the prohibited conduct or if it is perceived that a conflict of interest exists between a work-site supervisor or manager and the person involved in that conduct, the applicant, or volunteer is free to bypass the work-site supervisor or manager and report the conduct directly to the EEO Office at headquarters.

POLICY AND PROCEDURES

2661

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Sexual harassment is a form of discrimination. Employees who believe they have been sexually harassed should use the following process to report sexual harassment.

FORMAL DISCRIMINATION COMPLAINT PROCESS**EMPLOYEE**

An employee who believes he/she has been sexually harassed, can file a formal complaint with the EEO office within one year (365 calendar days) of the alleged sexual harassment. Employees should not delay in raising EEO concerns. Any employee who believes he/she was sexually harassed should file a formal complaint immediately. This is especially important where safety issues may be involved.

Even if he/she does not file a formal complaint, he/she must report the conduct immediately to his/her local administrator, appropriate supervisor, manager, or EEO Counselor.

To initiate a formal complaint, the employee should submit to the EEO office a written and signed statement describing the allegations. The Department requires that the individual filing a complaint must provide sufficient information to indicate a direct harm or injury because of the alleged sexual harassment.

ASSISTANT  
DIRECTOR,  
EEO OFFICE

- Identify any safety issues and bring those issues to the attention of the local administrator and other appropriate units.
- Assure thorough review of complaint and initiate, where warranted, a formal investigation. Complaints that do not warrant a formal investigation may be referred to the Departmental Ombudsperson for State Personnel Board mediation.
- Assure timely completion of investigations, as required by law.
- Where appropriate, coordinate review of the investigation by Legal Office, Deputy Director, Chief Deputy Director, and the Director.
- Debrief local administrator on issues regarding individual discrimination complaints for prevention of future complaints.
- Notify the appropriate Deputy Director when a case has been accepted for investigation.

DEPUTY DIRECTOR

The Deputy Director of the Branch in which the complaint occurred should consult with the Assistant Director, EEO Office, Legal Office and others, as needed, to assure implementation of corrective or disciplinary actions, and preventive measures to avoid reoccurrence of such complaints.

DEPARTMENT OF THE YOUTH AUTHORITY	SUBJECT: SEXUAL HARASSMENT PREVENTION POLICY	
ADMINISTRATIVE MANUAL	SECTION:	2662

ELECTRONIC FILING OF DISCRIMINATION  
COMPLAINTS FOR INVESTIGATION OF EEO ISSUES

2662  
NEW

The Youth Authority accepts discrimination complaints for investigation of EEO issues through electronic mail because this provides the fastest method possible to identify and correct any potential discrimination. Contact the Assistant Director, EEO at the Internet web site address <http://www.cya.ca.gov/> to electronically file a discrimination complaint. Current Youth Authority employees may also use the internal electronic mail system.

ADDITIONAL FILING OPTIONS

2663  
REV

Additional filing options are:

California Department of Fair Employment and Housing,  
Federal Equal Employment Opportunity Commission, and  
California State Personnel Board.  
Office of the Inspector General

Bargaining Units 1, 3, 4, 11, and 13 can also file complaints of discrimination through the departmental grievance process.

RETALIATION PROHIBITED

2664

Employees who file a sexual harassment complaint, or act as a witness in a sexual harassment complaint investigation, their representatives, EEO officials or other employees participating at any stage of the complaint process, including the counseling stage or any time thereafter, are protected from retaliation by this policy as well as state and federal law. Regardless of the outcome of the discrimination complaint, the persons against whom the complaint has been filed (respondents) are forbidden to retaliate. So doing will result in appropriate disciplinary action being taken, up to and including dismissal. Also, under the Fair Employment and Housing Act, if a manager or supervisor retaliates against a complaining employee, the manager or supervisor should be prepared to personally pay any damages arising out of the conduct when an employee sues for retaliation.

FOR MORE INFORMATION

2665  
REV

Inquiries regarding the Youth Authority Sexual Harassment Prevention Policy should be directed to the Equal Employment Opportunity (EEO) Office. Staff of the EEO office may be contacted by telephone, on the Internet at <http://www.cya.ca.gov> or by electronic mail from every work site. The discrimination complaint process and complaint form may also be accessed through the Internet address at <http://www.cya.ca.gov/> and the Intranet address at <http://10.1.0.16/> on the Youth Authority Homepage.